



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-929]

Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order and Rescission of Later-Developed Merchandise Anticircumvention Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) determines that imports from the People's Republic of China (PRC) of graphite electrodes, produced and/or exported by Sinosteel Jilin Carbon Co., Ltd. and Jilin Carbon Import & Export Company (collectively, Jilin Carbon), with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order*, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act).¹

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0410, and (202) 482-1690, respectively.

¹ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009) (*Order*).

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2013, the Department published in the *Federal Register* the affirmative *Preliminary Determination* that graphite electrodes produced and/or exported by Jilin Carbon, with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order*, pursuant to section 781(c) of the Act.²

On May 15, 2013, and May 17, 2013, SGL Carbon LLC and Superior Graphite Co. (Petitioners), Jilin Carbon, and Ceramark Technology, Inc. (Ceramark) filed case briefs.³ On May 22, 2013, Petitioners filed a rebuttal brief.⁴

On June 27, 2013, we initially contacted U.S. International Trade Commission (ITC) staff via telephone to discuss our preliminary affirmative circumvention determination⁵ and on August 2, 2013, we formally notified the ITC of our *Preliminary Determination*.⁶ On August 16, 2013, the ITC sent a letter in reply.⁷

Scope of the Antidumping Duty Order

The merchandise subject to the order is small diameter graphite electrodes. The small diameter graphite electrodes subject to the order is currently classifiable under the following

² See *Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Intent To Rescind Later-Developed Merchandise Circumvention Inquiry*, 78 FR 22843 (April 17, 2013) (*Preliminary Determination*).

³ See Petitioners' case brief dated May 17, 2013, Jilin Carbon's case brief dated May 17, 2013, and Ceramark's case brief dated May 15, 2013.

⁴ See Petitioners' rebuttal brief dated May 22, 2013.

⁵ See Memorandum to the file, "Circumvention Inquiry of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Informal Telephone Consultation with the International Trade Commission" (August 2, 2013).

⁶ See Letter to Irving A. Williamson, Chairman, U.S. International Trade Commission, "Small Diameter Graphite Electrodes from the People's Republic of China: Notification of Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order" (August 2, 2013).

⁷ See Letter from Lisa R. Barton, "Small Diameter Graphite Electrodes from China, Commerce Anticircumvention Inquiry A-570-929" (August 16, 2013).

subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 8545.11.0010,⁸ 3801.10,⁹ and 8545.11.0020.¹⁰ The HTSUS subheadings are provided for convenience and customs purposes. A full description of the scope of the order is contained in the Issues and Decision Memorandum, which is hereby adopted by this notice. The written description is dispositive.

The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Anticircumvention Inquiry

The merchandise subject to this anticircumvention inquiry consists of graphite electrodes from the PRC, produced and/or exported by Jilin Carbon, Beijing Fangda Carbon-Tech Co., Ltd. and Fangda Carbon New Material Co., Ltd., and Fushun Jinly Petrochemical Carbon, with

⁸ The scope described in the *Order* refers to the HTSUS subheading 8545.11.0000. Petitioners have informed the Department that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020. See Letter from Petitioners, "Small Diameter Graphite Electrodes: Request for Scope/Circumvention Ruling" (April 5, 2012) at 5.

⁹ HTSUS subheading 3801.10 was added to the scope of the *Order* based on a determination in a prior anticircumvention proceeding. See *Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 77 FR 47596 (August 9, 2012).

¹⁰ We have added this HTSUS subheading in order to capture the merchandise subject to this inquiry. See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Anticircumvention Inquiry Regarding the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of the Anticircumvention Inquiry" dated concurrently with this notice (Issues and Decision Memorandum) at Comment 2.

diameters larger than 16 inches but less than 18 inches, and otherwise meeting the description of the scope of the *Order*. Consistent with the *Preliminary Determination*, we have limited the application of our affirmative final determination to graphite electrodes produced and/or exported by Jilin Carbon with an actual or nominal diameter of 17 inches because record evidence shows that among the named producers, only Jilin Carbon produces or exports merchandise subject to this proceeding and, moreover, that Jilin Carbon produces and/or exports only 17-inch diameter graphite electrodes to the United States.¹¹

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this proceeding are addressed in the Issues and Decision Memorandum. A list of the issues which the parties raised and to which the Department responds in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a proprietary document with a public version, and the public version is on file electronically *via* IA ACCESS.

Final Determination

As detailed in the Issues and Decision Memorandum, we determine, pursuant to section 781(c) of the Act, that imports from the PRC of certain graphite electrodes, produced and/or exported by Jilin Carbon, with a diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it is properly subject to the *Order*.

¹¹ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China" dated April 17, 2013, at 3-4.

Continuation of Suspension of Liquidation

As a result of this determination, and consistent with 19 CFR 351.225(l)(3), we are continuing to direct Customs and Border Protection to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate on unliquidated entries of graphite electrodes, produced and/or exported by Sinosteel Jilin Carbon Co., Ltd. and Jilin Carbon Import & Export Company, with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, that were entered, or withdrawn from warehouse, for consumption on or after June 25, 2012, the date of publication of the initiation of this inquiry.

Rescission of Later-Developed Merchandise Anticircumvention Inquiry

Because we are making an affirmative determination of circumvention pursuant to section 781(c) of the Act, we do not find it necessary to determine pursuant to section 781(d) of the Act whether this is later-developed merchandise that is circumventing the *Order*. Accordingly, we are rescinding the later-developed-merchandise anticircumvention inquiry.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination of circumvention is in accordance with section 781(c) of the Act and 19 CFR 351.225(i).

Paul Piquado
Assistant Secretary
for Import Administration

September 10, 2013_
Date

Appendix

Discussion of the Issues

- Comment 1: Whether Graphite Electrodes with a 17-inch Diameter Should Be Covered by the Order
- Comment 2: Whether the Scope of the Order Should be Updated to Reflect Subsequent Anticircumvention Determinations

[FR Doc. 2013-22476 Filed 09/13/2013 at 8:45 am; Publication Date: 09/16/2013]